

REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the foregoing amendments and following remarks, are respectfully requested.

Claim 10 has been amended to provide a clearer presentation of the claimed subject matter. Ample support for the amendments can be found throughout the as-filed Specification. Thus, no new matter has been added.

Claims 1-9 of the parent application (Application Serial No. 09/016,805; now patented as U.S. Patent No. 6,633,337), of which the present application is a continuation, are directed to an electronic camera whereas claims 10-18 of the present invention are directed to a portable telephone.

NON-STATUTORY DOUBLE PATENTING REJECTION

Claims 10-18 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 of U.S. Patent No. 6,633,337 (Togino) in view of U.S. Patent 5,893,037 (Reele).

A terminal disclaimer is being filed herewith solely in an effort to expedite prosecution. Applicant further notes that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d (BNA) 1392 (Fed. Cir. 1991). The court indicated that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.”

Accordingly, withdrawal of this rejection is earnestly solicited.

CLAIM REJECTIONS

The Examiner rejected claims 10-16, under 35 U.S.C. §103(a), as allegedly being unpatentable over Okuyama (U.S. Patent No. 5,689,736) in view of Reele; and rejected claims 17/10 – 17/16 and 18/10 – 18/16, under 35 U.S.C. §103(a), as allegedly being unpatentable over Okuyama, in view of Reele as applied to claims 10-16 and further in view of Nakao (U.S. Patent No. 5,161,025).

As indicated above, independent claim 10 has been amended to positively recite the features:

the following conditions are satisfied:

$f < 20$ (mm)

$L < 15$ (mm)

It is clear that none of the asserted references, namely, Okuyama, Reele, or Nakao, whether taken alone or in combination, remotely suggest such features. As such, claim 10 is clearly patentable. And, because claims 11-18 depend from claim 10, either directly or indirectly, claims 11-18 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, the immediate withdrawal of the prior art rejections of claims 10-18 is respectfully requested.

CONCLUSION

All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant submits that the entry of this Amendment is proper under 37 C.F.R. §1.116 as the claim changes: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not require any further consideration as the changes incorporate, in one form or another, features that should have been already searched; and (c) places the application in better form for an Appeal, should an Appeal be necessary.

Applicant's Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the Undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 03-3975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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